

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

RUSSELL ALLAN BOWDEN,

Defendant and Appellant.

G057534

(Super. Ct. No. C62978)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Kimberly Menninger, Judge.

Mark D. Johnson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\*

\*

\*

In 1986, defendant Russell Allan Bowden stabbed Robin Luss with a butcher knife, killing him. A jury convicted defendant of second degree murder and found he personally used the butcher knife to commit that offense. The court sentenced defendant to 15 years to life in prison.

In 2019, defendant filed a petition for resentencing under Penal Code section 1170.95 (section 1170.95), which alleged he was convicted “pursuant to the felony murder rule or the natural and probable consequences doctrine.”

The court denied the petition, on the grounds it “does not set forth a prima facia case for relief under the statute.” The court explained: “A review of court records indicates defendant is not eligible for relief under the statute because the defendant does not stand convicted of murder . . . based on felony-murder or on a natural and probable consequences theory of vicarious liability for aiders and abettors.”

Defendant appealed.

We appointed counsel to represent defendant on appeal. Counsel filed a brief summarizing the proceedings and facts of the case and advised the court he found no arguable issues to assert on defendant’s behalf. (*Anders v. California* (1967) 386 U.S. 738; *People v. Wende* (1979) 25 Cal.3d 436.) Counsel and this court notified defendant he could file a supplemental brief on his own behalf. However, we received no supplemental brief from him and the time to file one has passed.

We have independently reviewed the entire record as required under *Anders v. California, supra*, 386 U.S. 738 and *People v. Wende, supra*, 25 Cal.3d 436, and, like defendant’s counsel, we have found no arguable issues on appeal.

The court correctly ruled the petition does not set forth a prima facia case for relief. (§ 1170.95, subds. (a), (c)(3).) As the court explained, defendant is not eligible for relief under section 1170.95 because he was not convicted of “felony murder or murder under a natural and probable consequences theory . . . .” (§ 1170.95, subd. (a).) Rather, as noted above, he was convicted as the direct perpetrator of the murder.

**DISPOSITION**

The order is affirmed.

THOMPSON, J.

WE CONCUR:

FYBEL, ACTING P. J.

IKOLA, J.